

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission,)	
On Its Own Motion)	
)	
-vs-)	01-0488
)	01-0489
Crystal Clear Water Company)	01-0490
Highland Shores Water Company)	01-0491
McHenry Shores Water Company)	01-0492
Northern Illinois Utilities, Inc.)	
Wonder Lake Water Company)	(consolidated)
)	
Citations for failure to comply with)	
Commission orders.)	

REBUTTAL TESTIMONY

OF

THOMAS P. MATHEWS, SR.

FILED
2015 APR 22 P 1:14
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REBUTTAL TESTIMONY
OF
THOMAS P. MATHEWS, SR.

- 1 **Q. Please state your name, business address and position with**
2 **the Respondents, Crystal Clear Water Company, Highland**
3 **Shores Water Company, McHenry Shores Water Company,**
4 **Northern Illinois Utilities, Inc. and Wonder Lake Water**
5 **Company?**
6
7 A. My name is Thomas P. Mathews, Sr., 7314 Hancock Drive,
8 Wonder Lake, Illinois. I am the President of each of the above
9 Respondents.
10
11 **Q. What is the purpose of your Rebuttal Testimony in these**
12 **consolidated Citation proceedings?**
13
14 A. I wish to respond to the Additional Direct Testimony and Rebuttal
15 Testimony of Staff witnesses Roy A. King, the Direct Testimony of
16 Staff witness Rochelle Langfeldt, and the Direct Testimony of
17 Thomas P. Griffin.
18
19 **Q. Before specifically addressing specific portions of Staff**
20 **testimony in each of these dockets, do you have any general**
21 **comments regarding same?**
22
23 A. Yes. I have owned each of the five subject water companies up
24 to forty years. The number of customers for each company has
25 not materially increased over this period. Crystal Clear Water
26 Company ("CCWC") has the fewest number of customers with
27 296, while Highland Shores Water Company ("HSWC") has the
28 greatest number of customers, 644. Overall, the five companies
29 each average approximately 450 customers. What is critical in
30 recognition of the relatively few number of customers for each
31 company, and in the aggregate, is that in order to provide the
32 level of service required by the Illinois Environmental Protection
33 Agency ("IEPA") and this Commission, substantial rate relief was
34 and remains absolutely critical to maintain the financial viability,
35 reliability and water quality of these utilities. Absent that rate

36 relief, these water utilities were, and still are, without the
37 resources to provide the level of service I would like to provide
38 and which my customers deserve, and these companies are
39 unable to meet certain of the items required to be performed by
40 the Commission in its Orders in the Company's 1999 short form
41 rate cases. Ironically, given this desperate need
42 for additional revenues (rate relief), the Staff inexplicably
43 demanded that the new short form rate cases which were
44 proceeding on a parallel track with these proceedings be
45 "voluntarily" dismissed by each of my water companies.
46 Obviously, without rate relief, I am unable to make the
47 capital outlay to meet the various requirements set forth
48 in the Commission's prior orders and addressed in Mr. King's
49 testimony. Accordingly, the result of Staff's insistence upon the
50 dismissal of the most recent short form rate was, effectively,
51 whatever Staff's motives may be, to assure that my water
52 companies could not comply with the requirements of the
53 1999 Orders and Staff's requests in these proceedings, thus
54 buttressing Staff's case for implementation of acquisition of my
55 utilities by "proximate" water utilities.
56

57 **Q. Do you believe Staff is aware of your companies severe**
58 **revenue shortfalls and mindful of the fact that such a**
59 **circumstance precludes your undertaking the projects**
60 **addressed by Mr. King?**
61

62 **A.** Absolutely. While even a cursory review of Mr. Griffin's testimony
63 reveals a principal purpose of presenting an analysis of the five
64 utilities' poor record keeping practices, perhaps more significantly,
65 his testimony also reflects the fact that the result of such practices
66 (and I would submit other matters as well which have been and
67 remain beyond my control) have resulted in virtually continuous
68 under-earning by each of my utilities. Also, I would point out that
69 while, obviously, my utilities are being singled out by virtue of these
70 proceedings, in fact, very few small northern Illinois utilities, given
71 the unsatisfactory nature of the indigenous water supply, can or
72 have provided the level of service their customers and the Staff
73 would like to see. That is why, I am told by my attorneys and
74 others, it is Staff's and the Commission's stated policy to basically
75 eliminate small water utilities through acquisition by larger, more
76 financially stable, water utilities. However, what I feel is unfair
77 and unfortunate for my utilities, is that in Mr. King's responses
78 to our Data Requests, he provides IEPA reports which show
79 approximately 200 utilities, many, if not most, of which appear
80 to be regulated by this Commission, with very serious service

81 problems. Yet, as Mr. King acknowledges in a response to a
82 Data Request, neither he nor anyone else on Staff is aware of
83 proceedings like this ever having previously been initiated against
84 any other water company.
85

86 **Q. Do you have any other general observations?**

87
88 **A.** Yes. For the past 5 years or so, it appears that rather than trying
89 to assist me and my small water companies, in attaining
90 compliance, Staff has made it exceedingly difficult in many
91 instances for me to meet the companies' obligations to the
92 Commission and my customers. I have no personal quarrel with
93 Staff and recognize that in several instances, despite my good
94 faith attempts to meet most Commission requirements, I have,
95 in several respects, failed to do so. Additionally, I recognize that
96 certain unrealized rate relief was, in part, the result of poor timing
97 and/or the inability of my small utilities, with limited financial and
98 other resources to prosecute timely requests for rate relief. That is
99 why Staff's cooperation was and remains so critical to the
100 maintenance of viable water utilities. The Staff, however, by
101 insisting upon certain impossible time lines to bring my companies
102 into compliance with Commission requirements, have hindered
103 rather than assisted my utilities in achieving the very compliance,
104 the lack of which is the predicate for these proceedings.
105 Notwithstanding, I have tried to meet these time lines to the best
106 of my ability, recognizing, as I indicated earlier, that I must take
107 some responsibility for certain failures with respect to achieving
108 same. Specifically, I have in my mind my failure to carry through
109 Staff's requested various meter reading programs, filing quarterly
110 reports and establishing and maintaining continuing property
111 ledgers, as detailed in Mr. King's and Mr. Griffin's testimony.
112 In large measure, Staff's contentions are correct that there has not
113 been compliance with several items required by the terms of
114 the Commission's orders of June 16, 1999. The above-
115 enumerated items, which unlike other items herein, do not
116 require huge financial expenditures to accomplish. While I may
117 have appeared to have had the option to file new rate cases as
118 contemplated in the June 16, 1999 rate orders, my limited financial
119 resources, and overwhelming time constraints resulting from the
120 corporate bankruptcy proceedings, the IEPA proceedings,
121 extensive negotiations with certain municipalities to independently
122 have them acquire my water companies, and my continuing efforts
123 to raise cash through all available means, including turning to
124 capital invested in my other business ventures, simply would not
125 allow me to do so. Only recently has the financial draining,

time consuming and emotionally difficult bankruptcy proceedings all of the companies were involved in, as evidenced by Respondents' Group Exhibit 2.1, which indicates the dismissal of five bankruptcies, been brought to conclusion. All of these matters have made the filing of conventional rate cases (which it was understood to be filed as recited in the 1999 rate orders) an impossibility to pursue.

Q. How do you propose to respond to Mr. King's Additional Direct Testimony?

A. While I find much of Mr. King's Additional Direct Testimony to be somewhat duplicative, I will attempt, nevertheless, to address, in part, each company's individual situation, starting with CCWC.

Q. Beginning on Page 2, line 29, through page 4, Line 92, Mr. King describes those public utilities proximate to CCWC, their capabilities to provide safe, adequate and reliable service and Mr. King also identifies other water suppliers within a 5-mile radius of CCWC. Do you fully agree with Mr. King's analysis?

A. No. I believe Mr. King should have also named McHenry Shores Water Company ("MSWC"). Also, Mr. King ignores the City of Crystal Lake, which completely surrounds the 60 plus acres of CCWC, and, in doing so, effectively also ignores the extraordinary amount of time, energy and resources I have used to negotiate with Crystal Lake for the sale of the company.

Q. Starting on Line 135, Page 6, Mr. King describes why Staff witnesses are not presenting evidence on the financial, managerial and technical abilities of capable water utilities. Mr. King states that because the governmental and mutual public utilities are not subject to Commission jurisdiction, he does not have sources for easily determining their financial, managerial and technical abilities. He goes on to state that each of these entities would require a special study, etc. He provides similar testimony regarding his failure to discuss the capabilities of the governmental and mutual systems with respect my other four companies. Do you believe Mr. King's testimony in this regard is complete and dispositive?

A. No. It would appear to me to be logical and, according to my attorneys, legally mandated, that Staff's investigation include all proximate water utilities. Since I am not an attorney, I will not

171 address the legalities. However, I believe simply from a common
172 sense approach, it is a disservice, not only to me, in light of my
173 extensive negotiations with certain proximate municipal utilities
174 regarding the acquisition of my water companies outside of the
175 parameters of these proceedings for lengthy periods of time, but to
176 the present and future water utility customers in each service
177 area, not to consider on an equal footing all capable proximate
178 water utilities. Moreover, I must admit I have considered that Mr.
179 King's reluctance to investigate governmental and mutual water
180 systems might be an attempt by him and/or Staff to maintain
181 continuing jurisdiction over the acquiring entity, which would, of
182 course, not be the case if a municipal system acquires one or
183 more of my companies. Accordingly, it is necessary and proper to
184 fully investigate the financial, managerial and technical
185 capabilities of the City of Crystal Lake, and any other proximate
186 municipal water system. It would not necessarily take much of a
187 study to determine that Crystal Lake has good water quality, an
188 adequate source of supply and more than the required storage
189 capacity. Moreover, if Staff requested Crystal Lake, or any other
190 municipality to appear in these proceedings (which under the
191 Commission's Rules, a municipality can do at its own volition as a
192 matter of right), it should be relatively easy to determine the
193 municipality's financial, managerial and technical abilities.
194 Additionally, in a Data Response, Mr. King avers that Staff has not
195 examined any municipal system because no municipality has
196 "filed" for such consideration. Since Illinois-American Water
197 Company has recently filed written *Petitions to Intervene* in all five
198 Citation cases, I suspect, at the urging of Staff, I see no reason
199 why Staff could not urge proximate municipals to file their
200 appearances and participate in these proceedings. After all,
201 Mr. King's response to a Data Request clearly states that the
202 City of McHenry has been in touch with him regarding these
203 matters.
204

205 **Q. In his Additional Direct Testimony, Mr. King discusses the**
206 **need for certain improvements. Do you agree with his**
207 **assessments?**
208

209 **A.** No. On Page 7, Line 159, Mr. King cites storage tanks and
210 hydrants. Specifically, he cites the need for hydrant repairs and
211 Replacement on Lines 168-169. With respect to providing a
212 40,000 gallon storage tank, I disagree with Mr. King's analysis
213 regarding the need for this extraordinarily expensive project.
214 CCWC has only 296 customers and since it is surrounded by
215 Crystal Lake, no significant growth is possible. Mr. King is aware

216 that the existing storage is in excess of 30,000 gallons. Clearly,
217 this storage is adequate. Moreover, Mr. King's use of a 3.5
218 population equivalent ("p.e.") uses an outdated 1978 standard, the
219 current standard is 2.63 p.e., as shown on the U.S. Census
220 Data on Respondent's Exhibit 1.1. Moreover, in Mr. King's
221 response to a Data Request in this regard, he utilizes outdated
222 figures and his memorandum to certain Staff persons, apparently
223 generated by the Data Request, is ambiguous and confusing.
224 Regarding hydrant repairs and replacement, over the past two
225 years hydrants have been repaired and two more will be replaced
226 within the next 60 days. I would note that the hydrants are for
227 flushing only, as the company does not provide fire protection,
228 which is ordinarily the principal purpose for having hydrants.

229
230 **Q. Do you have any other comments regarding Mr. King's**
231 **Additional Direct Testimony?**
232

233 **A.** Yes. Mr. King's testimony, and the Staff testimony generally
234 seems to be unduly critical of the company, since Staff is well
235 aware that CCWC and the other four water companies have
236 had grossly inadequate rate relief exacerbated, as stated earlier,
237 by Staff demanding earlier this year that all five companies
238 withdraw their then pending short form rate cases. CCWC simply
239 cannot repair and maintain its system, nor can I repair and
240 maintain any other system, without adequate rate relief. Mr. King
241 said on Page 10, Lines 218-219 of his Additional Direct Testimony
242 that no matter who operates CCWC in the future, rates will have
243 to increase to make necessary improvements. This is, with all
244 due respect, remarkably disingenuous when one recognizes that
245 this very rate increase Mr. King now asserts is necessary to make
246 any prospective acquiring entity viable, has cavalierly been denied
247 to my utilities when Staff absolutely demanded that I dismiss all
248 five previously pending short form rate cases.

249
250 **Q. Do you have any comments regarding Mr. King's Rebuttal**
251 **Testimony?**
252

253 **A.** Yes. Mr. King cites three safety deficiencies: hydrant
254 replacements; uncapped mains, open valves, and, inadequate
255 storage capacity. As I previously stated, the two hydrants are
256 being replaced. The uncapped dead end mains do not leak and
257 are in good condition. I have already addressed the adequacy
258 of the elevated storage tank.

259 ~~Q. Do you have any comment with Mr. King's criticism of the~~
260 ~~non-payment of CCWC's electric bill set forth on Pages 15-16~~
261 ~~of his Rebuttal Testimony, Lines 343-351?~~

262
263 ~~A. Yes. Mr. King, other than reviewing the electric bills, apparently~~
264 ~~has made no meaningful investigation of the underlying reasons~~
265 ~~for non-payment. If, in fact, he has, then he misses the cogent~~
266 ~~points the company has made, supported by reams of~~
267 ~~documentation. A very significant dispute exists between CCWC,~~
268 ~~my other four water companies, and Commonwealth Edison~~
269 ~~Company over what amounts are, in fact, owed. Over the past~~
270 ~~five years, there has not been any service interruption due to~~
271 ~~ComEd billing issues. One would expect that curiosity and logic~~
272 ~~would suggest that if ComEd has not pursued these unpaid~~
273 ~~invoices at the Commission or in the courts for all these years,~~
274 ~~neither remedy of which would jeopardize the water companies'~~
275 ~~provision of service to its customers, then there must be a good~~
276 ~~reason why ComEd allows this situation to continue. In fact, I~~
277 ~~have a stack of documents explaining, among other things,~~
278 ~~that ComEd constructed its lines a great distance inside of its~~
279 ~~easements, in this case, in part, on a significant portion of my~~
280 ~~property. Perhaps, ComEd would rather not pursue collection~~
281 ~~of the alleged past due bills than be forced to move its power lines,~~
282 ~~this certainly would explain, as indicated in Mr. King's response to~~
283 ~~the Data Request on this issue, ComEd's reluctance to fully~~
284 ~~disclose or otherwise engage the Commission's good offices with~~
285 ~~respect to this matter. Also, it is remarkably strange that ComEd~~
286 ~~has requested Mr. King to keep its financial records on my water~~
287 ~~utilities' accounts confidential. One would expect that if an entity~~
288 ~~providing goods or services intends to be paid, it would be willing~~
289 ~~to furnish all relevant documents supporting the amounts owed.~~
290 ~~ComEd's strange reluctance in this regard is compounded by Mr.~~
291 ~~King, who has determined to honor ComEd's request. Quite~~
292 ~~frankly, were the situation reversed, and had I asked that~~
293 ~~Information I furnished to Staff on this matter to be held in~~
294 ~~confidence, I am certain Mr. King would have found a way to get all~~
295 ~~information to ComEd. However, Mr. King did not look to me for~~
296 ~~an explanation of this situation, but chose to serve a plethora~~
297 ~~of data requests on ComEd (not even, of course, a party to~~
298 ~~this proceeding), which ComEd was slow and reluctant to respond~~
299 ~~to. Also, my attorneys have advised me that under the laws of~~
300 ~~adverse possession, it is quite possible prescriptive easement~~
301 ~~by adverse possession, at which time, presumably, it could still~~
302 ~~bring an action for a significant portion of the past due accounts.~~

303 ~~While I have no independent support for this possible explanation~~
304 ~~regarding ComEd's strange secretive behavior on this matter,~~
305 ~~the adverse possession issue would appear to go a long way~~
306 ~~to explain ComEd's conduct.~~
307

308 **Q. Do you agree with Mr. King's ultimate assessment in his**
309 **Rebuttal Testimony, pages 16-17, Lines 354-359, that Section**
310 **4-502 of the Public Utilities Act should be applied to CCWC?**
311

312 **A.** No. I completely disagree with Mr. King. If we had the appropriate
313 relief needed over the years, and, more importantly, at this time,
314 we would have the financial ability to provide superior service
315 to CCWC customers. It is only our lack of this financial ability
316 to provide better service which has made it appear that we, on
317 too many occasions, lack the managerial, technical and financial
318 ability to provide safe, adequate and reliable service to CCWC
319 customers. The Staff would not have foundation for managerial or
320 technical complaints, if rates were adequate. Therefore, I believe
321 Section 4-502 of the Act should not be applied and these citation
322 proceedings should be dismissed. Alternatively, having
323 contributed to CCWC's allegedly inadequate service by turning
324 down rate relief at critical junctures, at the very least, Staff should
325 give consideration to the City of Crystal Lake in this proceeding
326 in order to determine if it has the financial, managerial and
327 technical ability to provide adequate and reliable service to
328 CCWC customers.
329

330 **Q. Have you attempted to enter into private negotiations with the**
331 **City of Crystal Lake to purchase CCWC?**
332

333 **A.** Yes, Private negotiations have been ongoing for the past few
334 years. In my judgment, Crystal Lake is the water supplier best
335 situated to purchase CCWC. As I previously testified, Crystal
336 Lake completely surrounds CCWC and connections to the City
337 system would be easy and inexpensive. To date, progress in the
338 negotiations has been disappointing. I believe the existence of the
339 Citation proceedings and Staff's consistent support for the desire
340 of I-AWC and UI to acquire my water companies have significantly
341 hampered my negotiations as to all my water utilities. Staff's open
342 support of I-AWC and UI, even before Staff's testimony was filed,
343 has clearly put a damper on my ongoing negotiations with the
344 municipalities and, moreover, has resulted in a significant
345 diminution in the price at which I can sell CCWC whether within or
346 without the four corners of this proceedings. This is particularly
347 discouraging since neither I-AWC nor UI are within a 5-mile radius

348 of CCWC and neither may lawfully even be able to acquire CCWC
349 within these Citation proceedings. Once again, according to my
350 attorneys, the strict standards of the statute would appear to
351 preclude condemnation. I believe even Staff witness King
352 addresses this very same concern in his testimony.
353

354 **Q. Let's now turn to Mr. King Additional Direct Testimony**
355 **regarding Highland Shores Water Company ("HSWC"). Do**
356 **you agree with Mr. King, Page 2, Line 17, that UI is the**
357 **one proximate public utility?**
358

359 **A.** No. UI is not within 5 miles of HSWC. The only proximate public
360 utilities are my other companies, Wonder Lake Water Company
361 ("WLWC") and Northern Illinois Utilities, Inc. ("NIU"). I would also
362 note that the Village of Johnsburg is more than 5 miles from
363 HSWC.
364

365 **Q. Do you believe any municipal water system is capable of**
366 **purchasing HSWC?**
367

368 **A.** Yes, the Village of Wonder Lake. Wonder Lake is negotiating
369 to purchase HSWC, as well as WLWC and NIU. Wonder Lake
370 has the incentive of being able to get government grants and
371 low interest loans or issue bonds for the building of a new water
372 tower, iron treatment facility, looping of mains, and any other
373 improvements that are needed. The permit to construct the water
374 tank is included as Respondents Exhibit 1.2. A municipal purchase
375 of any of the Respondents would greatly benefit customers
376 because the resultant rates should be lower.
377

378 **Q. On Pages 6 and 7, Lines 132-158 of Mr. King's Additional**
379 **Direct Testimony, he describes certain necessary**
380 **expenditures, the largest one being a storage tank for HSWC.**
381 **Please specifically discuss the construction of the storage**
382 **tank.**
383

384 **A.** Yes. The storage tank has yet to be built. However, this does not
385 mean that service is inadequate. Quite the contrary, the present
386 tank, combined with the 500% pumping capacity of daily demand,
387 meets customer needs. In fact, since 1988, there has never been
388 a sprinkling ban.
389

390 **Q. At Page 8, Lines 171-175 of Mr. King's Additional Direct**
391 **Testimony, he discusses his recommendation that I-AWC**

392 **should purchase HSWC. Do you agree with this**
393 **recommendation?**
394

395 A. No. I-AWC has not commenced any negotiations with me. I
396 believe that Mr. King is only speculating that I-AWC will have less
397 of an impact on customer rates. I believe the purchase by
398 Wonder Lake would have less of an impact. In this regard, given
399 Staff's stated desire to have I-AWC purchase all five of my water
400 utilities even though it is not "proximate" to all of them, rather than
401 pursuing that end through the citation proceedings, if I-AWC is
402 indeed interested in acquiring my utilities, it should approach me
403 to negotiate an agreement outside of the citation proceedings to
404 purchase all of the utilities. Staff, of course, would still have
405 jurisdiction to review the agreement under the Public Utilities Act,
406 and assuming a fair price is negotiated, an assumption that is
407 only logical if both parties agree to a purchase and sale, everyone,
408 i.e., me, I-AWC, the Staff, and the customers of each utility should
409 be satisfied with the outcome.
410

411 Q. **Do you have any other comments regarding Mr. King's**
412 **Additional Direct Testimony?**
413

414 A. As previously mentioned, I believe that the Citations should be
415 dismissed and I be allowed to independently negotiate with
416 Wonder Lake to purchase HSWC. A Section 4-502 proceeding
417 is neither beneficial to customers nor HSWC.
418

419 Q. **Turning to Mr. King's Rebuttal Testimony in the HSWC portion**
420 **of the Citation proceedings, could you generally comment**
421 **on this testimony?**
422

423 A. Yes. Many of the same problems to which Mr. King alludes are
424 common to all five Respondents. I wish to only touch on three
425 points raised by Mr. King. First is the issue of customer refunds.
426 Over the past four years, I have consistently advised Mr. King
427 that any charges for the return of an NSF check have been
428 reversed. No customer is owed any refund. Mr. King also
429 complains of uncapped mains. The uncapped mains are, in fact,
430 valves that do not have valve plates. They do not leak.
431 Mr. King also insists upon a systematic examination of mains of all
432 companies. Specifically, HSWC has never had an indication of
433 any problem with its mains. No water supplier would systematically
434 examine its mains without some indication of a problem.

- 435 **Q. Do you believe HSWC has the financial, technical and**
436 **managerial ability to serve its customers?**
437
- 438 A. Yes. With adequate rate relief it could do so.
439
- 440 **Q. Do you believe it would be best if Wonder Lake were to**
441 **purchase HSWC?**
442
- 443 A. Yes. Due to recent annexation, Wonder Lake also has the
444 ability to purchase NIU.
445
- 446 **Q. Let us look at Mr. King's Additional Direct Testimony for**
447 **McHenry Shores Water Company ("MSWC"). First, on Page 2,**
448 **Line 26, Mr. King states that there are two utilities that**
449 **are proximate to MSWC. Is he correct?**
450
- 451 A. Not quite. In addition, Eastwood Manor Water Company should be
452 included.
453
- 454 **Q. Do you believe that there is a capable water supplier to**
455 **purchase MSWC?**
456
- 457 A. Yes. I would surely include the City of McHenry for very serious
458 consideration for the same reasons previously stated.
459
- 460 **Q. Do you believe that there is any evidence that MSWC**
461 **does not provide, safe, adequate and reliable service**
462 **to its customers?**
463
- 464 A. No. This is a common complaint of Mr. King regarding all five
465 companies. I do not believe that Mr. King has produced any
466 significant evidence as to any of the companies. Most of his
467 criticisms have either already been addressed and corrected, do
468 not exist, or, in the case of his most significant criticisms
469 (dollarwise), as my testimony herein already shows, I disagree with
470 Mr. King's analysis and the reasons he states for expensive and
471 unnecessary additions. While northern Illinois groundwater is, by
472 its very nature unattractive, even after it is treated, it is, at least, in
473 the case of all my utilities safe to drink and meets all applicable
474 governmental and regulatory standards. The water quality meets
475 all testing requirements, the supply is adequate and the
476 companies staff is available 24/7. Our two wells at HSWC, for
477 example, can produce 350% of daily demand.

- 478 **Q. Do you have any specific comments regarding Mr. King's**
479 **estimate of estimated expenditures for MSWC shown on**
480 **Pages 7 and 8.**
481
- 482 **A.** Yes. The estimated cost to loop Beach Street is overstated by
483 about 400%. With the flushing hydrants looping of Beach Street
484 has not been necessary. Since there have not been any extended
485 power outages in the past 46 years, there may not be a need for
486 a back-up generator. Since 1974, the construction of the present
487 100,000 gallon storage tank has been sufficient to supply
488 customers for periods of time. There is an interconnection
489 to the City of McHenry under Green Street, which was installed to
490 connect Biscayne Highlands to what is now McHenry's system.
491 Alternate sources of power are available from at least three firms
492 in the area. In over 40 years, there has not been a situation
493 where an alternate source of power was needed.
494
- 495 **Q. Do you believe that I-AWC should be recommended to**
496 **purchase MSWC?**
497
- 498 **A.** No. I believe that the City of McHenry is the better choice. As
499 stated above, McHenry and MSWC are already connected
500 under Green Street. McHenry could provide service to MSWC
501 with little rate impact.
502
- 503 **Q. Do you have any comments regarding Mr. King's Rebuttal**
504 **Testimony for MSWC?**
505
- 506 **A.** Yes. I have only one comment to be added to the comments
507 made previously for my other companies. Mr. King has
508 complained that each of the companies, including MSWC, does
509 not have a procedure for testing water meters. We have always
510 used an outside meter testing company as needed. Historically,
511 it has been only necessary to use this company perhaps once per
512 year for the 2,200 customers of the five companies. Thus, it is
513 not necessary to have a contract with that meter testing
514 company. It would be both costly and unnecessary.
515
- 516 **Q. Do you believe MSWC has the financial, managerial and**
517 **technical ability to provide safe and adequate water services**
518 **to its customers.**
519
- 520 **A.** Yes, I do. Mr. King's allegations to the contrary for MSWC and the
521 other companies are merely his unsupported opinions, intended to

522 buttress Staff's general and unequivocally stated desire to
523 eliminate all small water utilities in Illinois. While Mr. King's
524 purpose is clear, it is wholly without evidentiary support.

525

526 **Q. Do you have any comments about Mr. King's Additional Direct**
527 **Testimony?**

528

529 **A.** Yes. I would first like to point out, that UI is not located within 5
530 miles of NIU. Only HSWC and WLWC are within a 5-mile radius.
531 Of course, this raises the same legal issue discussed earlier.

532

533 **Q. What water supplier would you recommend to purchase NIU?**

534

535 **A.** Wonder Lake is the village I would recommend. I have
536 previously recommended Wonder Lake in this testimony and I do
537 so again for the same reasons.

538

539 **Q. Do you agree with Mr. King that the estimated expenditures**
540 **shown on page 7, Lines 149-152, are necessary?**

541

542 **A.** No. Mr. King recommends the replacement of 2" mains.
543 He does so without any engineering study or historical data. The
544 pressure of the system enables these 2" mains to deliver an
545 adequate supply of water at a pressure of 35 pounds per square
546 inch, or more. I believe that replacing the mains would cost
547 several times more than Mr. King has estimated. The streets
548 would also have to be reconstructed. Moreover, while it is
549 doubtful that few if any water utilities would install new 2" mains at
550 this time, the existing mains are perfectly capable of continuing
551 as they always have, to provide adequate service, and, given the
552 few customers connected to that system and the cost of replacing
553 it, Mr. King's recommendation in this regard puts form over
554 substance. This is particularly true when customers in other areas
555 would have to share in this unneeded and unnecessary cost.

556

557 **Q. If NIU is acquired by a capable public utility, such as UI or I-**
558 **AWC, do you believe that Mr. King's testimony regarding**
559 **subsequent rates is correct?**

560

561 **A.** If Mr. King believes that the smaller the acquiring utility, the greater
562 the rate impact on customers, I agree. My recommendation to
563 have municipalities acquire my companies is based, in part, on
564 the recognition that the municipalities would have far less of a
565 rate impact on customers for all of the reasons I have already
566 stated. This is particularly true where, as in these proceedings,

567 there is at least a potential legal problem in that the recommended
568 acquiring public utilities are not proximate to my companies.
569

570 **Q. Do you have any specific comments regarding Mr. King's**
571 **Rebuttal Testimony for NIU?**
572

573 **A.** Yes. There is discussion of a second well by Mr. King. NIU is
574 investigating a location for a second well. The object of finding
575 the right location for the second well in an area where
576 the iron content is lower. Mr. King is aware that the cost of the
577 second well is \$20,000 and an engineering study by Infracon, Inc.
578 for the iron treatment facility also includes a new pump house.
579 A new rate increase would be required to cover these costs. We
580 have already purchased a stand-by pump and electrical starting
581 equipment that can be installed by either of two companies within
582 six hours of a pump failure.
583

584 **Q. Have you advised the Staff of the need for a rate increase?**
585

586 **A.** Yes. On April 16, 2002, I wrote a letter to Mr. Raymond A. Pilapil
587 requesting that the short form rate case for NIU be reopened so
588 that I could recover the costs of the new iron facility.
589 Respondents Exhibit 1.3 is a copy of the letter.
590

591 **Q. Do you have any other specific comments regarding Mr.**
592 **King's request for a customer survey?**
593

594 **A.** Yes. The survey has never been specifically requested by Mr.
595 King, or any other Staff member. If Mr. King had reviewed
596 the survey, he would have seen that less than 3% of our
597 customers showed an interest in having an iron treatment
598 facility.
599

600 **Q. Have you reviewed the Additional Direct and Rebuttal**
601 **testimony of Mr. King regarding WLWC?**
602

603 **A.** Yes.
604

605 **Q. Do you have any general comments regarding Mr. King's**
606 **Additional Direct Testimony?**
607

608 **A.** Yes. As previously mentioned, I believe the City of Wonder Lake
609 is the appropriate entity to acquire of WLWC. I know that WLWC
610 and the other four companies do provide safe, adequate and
611 reliable service to their customers and there is no evidence to

the contrary. Our failure to meet certain Commission requirements, without attempting to justify our failures or to diminish the importance of the Commission's role in regulating public utilities, does not, in and of itself, demonstrate that we provide poor service. Staff's sustained and continuous communications with possible entities it wished to have acquire my utilities, from at least as early as the commencement of these proceedings has substantially damaged my ability to independently negotiate, as I believe is my constitutional right, with other entities to acquire my companies and, I believe, has had the result (intended or unintended) of lowering the potential price for my companies.

Q. Do you have any specific comments regarding Mr. King's Rebuttal Testimony comments with respect to storage capacity?

A. Yes. The purpose of my comments is to update the status of obtaining a new storage vessel. After the initial IEPA application was rejected and after re-submission of two revised applications for the tank, WLWC was advised that a permit for a vessel would not be issued until a complete study of the system, including a distribution system, the topography, friction loss, and other engineering factors were completed. This work took over two years and over \$20,000 of engineering fees for the study. Mr. King has been provided with copies of the study, the permit and the engineering costs incurred since 1999.

Q. Do you have anything additional to add with respect to Ms. Langfeldt's testimony?

A. Yes. Generally, I do not take issue with Ms. Langfeldt's testimony. Ms. Langfeldt principally addresses the financial strength of Staff's "favored" acquiring utility, I-AWC, and while I have made no independent study or inquiry regarding I-AWC's strength, given its size and general reputation, I have no reason to question her analysis and conclusions. What I cannot understand is why she questions I-AWC's financial viability in light of the pending stock purchase by Thames Water Aqua Holdings, GmbH, as set forth in Docket 01-0832, while Mr. King totally ignores this issue. Similarly, to the extent that Ms. Langfeldt appears to have reached a positive impression regarding UI's financial strength, I have no information which would lead me to contest her conclusions.

- 657 **Q. Do you have anything to add with respect to Mr.**
658 **Griffin's testimony.**
659
- 660 A. Mr. Griffin, as I alluded to earlier, takes after me regarding my
661 admittedly poor recordkeeping, and for whatever value it has at
662 this juncture, or whatever comfort it gives Staff, regardless of the
663 course which this proceeding and related and collateral matters
664 may take prospectively, including the possible acquisition of one
665 or more of my water utilities by another water system. I will
666 cooperate in whatever manner is reasonably necessary, if that is
667 still Mr. Griffin's desire, and, if possible, with Mr. Griffin's
668 assistance, to make a good faith attempt to initiate what he
669 desires.
670
- 671 **Q. Did Staff ever discuss with you what constitutes a**
672 **"proximate" entity?**
673
- 674 A. No. I cannot believe Staff discussed what entity is "proximate"
675 even with its attorneys. On this point, I believe Mr. King's
676 testimony is inconsistent. On the one hand, he proposes that
677 I-AWC purchase all five of my companies, while, on the other
678 hand, he acknowledges that HSWC, WLWC and NIU are not
679 proximate to these companies.
680
- 681 **Q. Does the intervention by I-AWC in all five Citation**
682 **proceedings and its apparent willingness to negotiate with**
683 **you for the sale of your five water companies change any of**
684 **testimony previously given?**
685
- 686 A. No. However, I welcome I-AWC's participation in these
687 proceedings and the opportunity to negotiate a fair purchase price
688 for my companies.
689
- 690 **Q. Do you have any final comments regarding these Citation**
693 **proceedings?**
694
- 695 A. Yes. I believe that the Citation proceedings should be dismissed.
696 a sufficient period of time to allow me to properly negotiate a
697 fair sale of these companies. This is particularly the case if the
698 Staff has any expectation or desire to have I-AWC acquire all my
699 water companies, given the apparent legal impediments under the
700 statutory framework.

701 **Q. Does this conclude your Rebuttal Testimony?**

702

703 **A. Yes.**